

# OFFICIAL GAZETTE



## GOVERNMENT OF GOA

*NOTE: There is one Extraordinary issue to the Official Gazette, Series II No. 39 dated 24-12-98 namely, Extraordinary dated 29-12-98 from pages 575 to 576 regarding Notification from Department of Labour.*

### GOVERNMENT OF GOA

Department of Cooperation  
Office of the Registrar of Cooperative Societies

#### Notification

No. 5-754-1998/ARCZ/HSG

In exercise of the powers vested in me under Section 9 of the Maharashtra Cooperative Societies Act, 1960 as applied to the State of Goa, Comfort Cooperative Housing Society Ltd., Aquem-Alto, Margao-Goa, is registered under code symbol No. HSG-(b)-282/South Goa/98.

Sd/- (C. D. Gawade), Asstt. Registrar of Coop. Societies (South).

Margao, 9th September, 1998.

#### Certificate of Registration

Comfort Cooperative Housing Society Ltd., Aquem-Alto, Margao-Goa, has been registered on 9-9-1998 and it bears registration code symbol No. HSG-(b)-282/South Goa/98 and it is classified as "Housing Society" under Sub-classification No. 5-(b)-Tenant Co-partnership Housing Society in terms of Rule 9 of the Cooperative Societies Rules 1962 for the State of Goa.

Sd/- (C. D. Gawade), Asstt. Registrar of Coop. Societies (South).

Margao, 9th September, 1998.

#### Notification

No. 5-755-1998/ARCZ/HSG

In exercise of the powers vested in me under Section 9 of the Maharashtra Cooperative Societies Act, 1960 as applied to the State of Goa, Sadananda Cooperative Housing Society Ltd., Kakoda, Curchorem-Goa, is registered under code symbol No. HSG-(b)-283/South Goa/98.

Sd/- (C. D. Gawade), Asstt. Registrar of Coop. Societies (South).

Margao, 14th September, 1998.

#### Certificate of Registration

Sadananda Cooperative Housing Society Ltd., Kakoda, Curchorem-Goa, has been registered on 14-9-1998 and it bears registration code symbol No. HSG-(b)-283/South Goa/98 and it is classified as "Housing Society" under Sub-classification No. 5-(b)-Tenant Co-partnership Housing Society in terms of Rule 9 of the Cooperative Societies Rules 1962 for the State of Goa.

Sd/- (C. D. Gawade), Asstt. Registrar of Coop. Societies (South).

Margao, 14th September, 1998.

#### Notification

No. 5-750-1998/ARCZ/HSG

In exercise of the powers vested in me under Section 9 of the Maharashtra Cooperative Societies Act, 1960 as applied to the State of Goa, Saldel Apartments Cooperative Housing Society Ltd., Pajifond, Margao-Goa is registered under code symbol No. HSG-(b)-278/South Goa/98.

Sd/- (C. D. Gawade), Asstt. Registrar of Coop. Societies (South).

Margao, 18th August, 1998.

#### Certificate of Registration

Saldel Apartments Cooperative Housing Society Ltd., Pajifond, Margao-Goa, has been registered on 18-8-1998 and it bears registration code symbol No. HSG-(b)-278/South Goa/98 and it is classified as "Housing Society" under Sub-classification No. 5-(b)-Tenant Co-partnership Housing Society in terms of Rule 9 of the Cooperative Societies Rules 1962 for the State of Goa.

Sd/- (C. D. Gawade), Asstt. Registrar of Coop. Societies (South).

Margao, 18th August, 1998.

#### Notification

No. ARCS/CZ/Credit/121/ADM/98

In exercise of the powers vested in me under Section 9 (1) of the Maharashtra Cooperative Societies Act, 1960 as applied to the State of Goa, The Sumangal Urban Cooperative Credit Society Ltd.,

Sosebhat-Adpoi, Ponda, Goa, is registered under code symbol No. ARCS/CZ/Credit/80(a)-111/Goa.

Sd/- (D. M. Pathan), Asstt. Registrar of Coop. Societies (Central).

Panaji, 11th September, 1998.

#### Certificate of Registration

The Sumangal Urban Cooperative Credit Society Ltd., Sosebhat-Adpoi, Ponda, Goa, is registered on 11-9-1998 and it bears registration code symbol No. ARCS/CZ/Credit/8-(a)-111/Goa and it is classified as "Resource Society" under Sub-classification No. 8-(a)-"Credit Resource Society" in terms of Rule 9 of the Cooperative Societies Rules 1962 for the State of Goa.

Sd/- (D. M. Pathan), Asstt. Registrar of Coop. Societies (Central).

Panaji, 11th September, 1998.

#### Notification

No. ARCS/CZ/CONS-2/GOA

Read: Show Cause Notice No. ARCS/CZ/CONS-2/Goa dated 15-12-1997.

Vide Show Cause Notice at above the Management of the EDSWA Cooperative Stores Ltd., was advised either to start the business of the society within a period of three months or submit its say if any in the matter in writing within the period specified therein as to why the action under Section 21 of the Act should not be initiated for cancelling the registration of the society. But no reply has been received in the matter even after the lapses of 8 months.

It is therefore seen that the Management of the Society is not interested in starting/commencing the business of the Society.

I, therefore, pass the following Order.

#### ORDER

In exercise of the powers vested in me under Section 21 of the Maharashtra Cooperative Societies Act, 1960, as made applicable to the State of Goa, I, D. M. Pathan, Asstt. Registrar of Cooperative Societies, Central Zone, Panaji is satisfied that no useful purpose will be served by merely continuing the existence of the EDSWA Cooperative Stores Ltd., and hence its registration is hereby cancelled.

Sd/- (D. M. Pathan), Asstt. Registrar of Coop. Societies (Central).

Panaji, September, 1998.

#### Notification

No. ARCZ/CZ/HSG/414/ADM/98

In exercise of the powers vested in me under Section 9 (1) of the Maharashtra Cooperative Societies Act, 1960 as applied to the State of Goa, Al-Ameen Cooperative Housing Society Ltd., Cujira-St-Cruz, Tiswadi, Goa is registered under code symbol No. ARCS/CZ/HSG/380-(b)/Goa.

Sd/- (D. M. Pathan), Asstt. Registrar of Coop. Societies (Central).

Panaji, 24th August, 1998.

#### Certificate of Registration

Al-Ameen Cooperative Housing Society Ltd., Cujira-St-Cruz, Tiswadi, Goa, has been registered on 24-8-1998 and it bears registration code symbol No. ARCS/CZ/HSG/380-(b)/Goa and it is classified as "Housing Society" under Sub-classification No. 5-(b)-"Tenant Co-partnership Housing Society" in terms of Rule 9 of the Cooperative Societies Rules 1962 for the State of Goa.

Sd/- (D. M. Pathan), Asstt. Registrar of Coop. Societies (Central).

Panaji, 24th August, 1998.

#### Notification

No. 5-752-1998/ARCZ/HSG

In exercise of the powers vested in me under Section 9 of the Maharashtra Cooperative Societies Act, 1960 as applied to the State of Goa, The Emmanuel Cooperative Housing Society Ltd., Chicalim-Goa, is registered under code symbol No. HSG-(b)-280/South Goa /98.

Sd/- (C. D. Gawade), Asstt. Registrar of Coop. Societies (South).

Margao, 20th August, 1998.

#### Certificate of Registration

The Emmanuel Cooperative Housing Society Ltd., Chicalim-Goa, has been registered on 20-8-1998 and it bears registration code symbol No. HSG-(b)-280/South Goa/98 and it is classified as "Housing Society" under Sub-classification No. 5-(b)-Tenant Co-partnership Housing Society in terms of Rule 9 of the Cooperative Societies Rules 1962 for the State of Goa.

Sd/- (C. D. Gawade), Asstt. Registrar of Coop. Societies (South).

Margao, 20th August, 1998.

#### Notification

In exercise of the powers vested in me under Section 9 (1) of the Maharashtra Cooperative Societies Act, 1960 as applied to the State of Goa, 'Candolim Consumers' Cooperative Society Ltd., Candolim, Bardez-Goa, is registered under code symbol No. CON-31/NZ/Goa.

Sd/- (S. S. Valvoikar), Asstt. Registrar of Coop. Societies (North).

Mapusa, 25th August, 1998.

#### Certificate of Registration

The 'Candolim Consumers' Cooperative Society Ltd., Candolim, Bardez-Goa, has been registered on 25-8-1998 and it bears registration No. CON-31/NZ/Goa and it is classified as 'Consumers Society' under Sub-classification 2 of Rule 9 of the Cooperative Societies Rules, 1962 for the State of Goa.

Sd/- (S. S. Valvoikar), Asstt. Registrar of Coop. Societies (North).

Mapusa, 25th August, 1998.

## Department of Labour

## Order

No. 28/50/88-LAB

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Governor of Goa.

V. G. Manerkar, Under Secretary (Industries and Labour).

Panaji, 16th December, 1991.

IN THE INDUSTRIAL TRIBUNAL  
GOVERNMENT OF GOA  
AT PANAJI

(Before Shri M. A. Dhavale, Hon'ble Presiding Officer)

Ref. No. IT/5/89

Workmen — Party I/Workmen

V/s

M/s Mahalsa Plastics — Party II/Employer

Workmen represented by Shri Subhash Naik.

Employer represented by Adv. B. G. Kamat.

Panaji, Dated: 21-11-1991.

## AWARD

In exercise of the powers conferred by clause (d) of sub. s. (1) of S. 10 of the Industrial Disputes Act, 1947, the Government of Goa, by its order No. 28/50/88-ILD dated 11th January, 1987 referred the following issue for adjudication by this Tribunal:

"Whether the action of the management of M/s Mahalsa Plastics, Cundaim, Goa in refusing employment to the following workmen w.e.f. 23-11-1987 is legal and justified ?

1. Shri Vasudev P. Naik, (2) Shri Namdev R. Naik, (3) Shri Pratap A. Naik, (4) Shri Jivu N. Jhalmi, (5) Shri Dattaram V. Devidas, (6) Shri Dynashwar D. Gavde, (7) Shri Khemu D. Gavde, (8) Shri Vishnu M. Gavde, (9) Shri Mahadev H. Gavde, (10) Kamalakant K. Gavde, (11) Shri Mahesh V. Naik, (12) Kum. Shubhangi J. Mathur, (13) Kum. Vishranti K. Gaonkar, (14) Kum. Sulbha V. Naik, (15) Kum. Vasanti A. Gavde, (16) Kum. Rekha Ramnath Gavde, (17) Kum. Shrimati K. Gavde, (18) Kum. Peeru V. Jhalmi (19) Kum. Beby N. Naik, (20) Shri Vasudev Y. Gavde, (21) Kum. Kanchan G. Nunvelkar, and (22) Kum. Nalini P. Naik.

If not, what relief the workmen are entitled to ?"

2. On receipt of this reference IT case No. 5/89 was registered and notices were sent to both the parties, in response to which they appeared and submitted their pleadings.

3. Party I-Workmen have filed statement of claim (Exb. 2) wherein they have averred as follows:

Party II-M/s Mahalsa Plastics, Cundaim, Goa is a factory which was started about 12 years back and it manufactures plastic containers etc., for which there is a high demand in the market. Party I-Workmen had not unionised themselves for several years. However, on 19-10-86 the workmen joined the Goa Trade & Commercial Workers' Union and the said fact was brought to the notice of the employer. After the formation of the union, the employer terminated the services of 4 workmen from 30-10-86 and hence the union raised an industrial dispute before the Labour Commissioner. Although the workmen appeared before the Labour Commissioner for discussion, still the employer did not attend and hence no settlement was arrived at. As the employer terminated the services of 4 workmen the remaining workers went on strike from 10-11-86 demanding the reinstatement of the said 4 workmen. However, the employer did not accede to the said demand and hence the strike continued. On 2nd Feb., 1987 in the afternoon, Shri Vaman Kelekar, proprietor of the said factory along with Shri Pradeep Velinkar brought about 100 goondas armed with deadly weapons and encircled the striking workers. Under the cover of darkness and a threat of assault, the said goondas removed some machines, materials and moulds from the factory and threatened the workers to kill. The workmen reported the matter to the Police Station and hence an offence of rioting, assault etc., was registered. Thereafter on 23rd of November, 1987 the workers withdrew the strike. However, inspite of withdrawal of strike, the employer refused to employ the workers and instead recruited new workers. It has been averred that the employer's action in refusing employment and recruiting new workmen is highly unjustified and illegal. The Labour Commissioner to whom the dispute was referred by the workmen called the employer for discussion on several occasions but there was no response from the employer and hence there was no settlement with the result the Government was obliged to refer this dispute to this Tribunal. - -

4. It has been averred that the workmen did not commit any misconduct and had a clean service record. They were in employer's service for the last many years. However, the employer acted in a vindictive manner and harassed and victimised the workmen. The employer did not comply with the provisions of Labour laws. Hence it has been prayed that the management's action in refusing employment to 22 workers named above should be held as illegal or unjustified and they should be reinstated in service with other incidental reliefs.

5. Party II-M/s Mahalsa Plastics-Employer by his written statement at Exb. 3 resisted the workmen's claim contending inter alia as follows:

It is denied that all the workmen have become the members of Goa Trade & Commercial Workers' Union. It is denied that the employer terminated the services of 4 workmen since they joined the union. It has been contended that while camping around the factory day and night, the striking workers of the employer's firm and the hirelings of the union caused extensive damage to the building, plant/machinery and equipment of the factory rendering it unworkable, in respect of which the evidence has been led in the earlier reference at IT No. 52/87. It is denied that the Proprietor of the employer's firm had themselves brought goondas for causing damage for the factory and all allegations in this behalf made in the statement of claim are totally baseless. It is denied that the factory was re-started on or after 10th Nov., 1986 and new employees were recruited. All allegations made in this behalf are totally baseless. A Court Commissioner to assess the damage done to the factory was appointed in IT/52/87 whose report is quite eloquent to prove that the factory was not in workable condition. Thus, after the strike, the company became defunct. It has been also contended that the above

named workers are gainfully employed, knowing fully well that the employer's factory would not start working without major repairs. Thus, on the basis of these contentions, it has been prayed that the workmen's claim be dismissed with cost.

6. Party I-Workman have filed rejoinder (Exb. 4) wherein they have challenged all the contentions taken by the employer in his written statement and have reiterated their claim stated in the statement of claim.

7. On these pleading, my learned predecessor Shri S. V. Nevagi, framed the following issues at Exb.5.

#### ISSUES

1. Whether the activity of manufacturing plastic articles by the Party II- Firm came to an end on or from 10th November, 1986 as stated in para. 2 of the written statement ?
  2. Whether the party II further proves that the workmen who were on strike damaged the property of the Firm as stated in para. 4 of the Written Statement ?
  3. Whether the factory is not in a working condition and the same could not be re-started without major repairs as stated in para. 7 of the written statement ?
  4. If so, whether the action of the management in refusing employment to the 22 workmen w. e. f. 23-11-87 is just and legal in the circumstances of the case ?
- § If not, what reliefs, if any are the workmen entitled to ?

My findings on the above issues are as follows for the reasons stated below:

1. In the affirmative
2. In the affirmative
3. In the affirmative
4. The action of the management in refusing employment to 11 temporary workers is just and legal. However, the 11 permanent workers are entitled to monetary benefits laid down in the proviso to S. 25 -FFF of the I.D. Act.

#### REASONS

8. The respective contentions of the parties to this dispute have been stated in the opening paragraphs of this judgment which need not further repetition. Now, before proceeding to consider the above referred issues framed in this case, I think it necessary to state, in brief, some of the facts which are either admitted or which are otherwise be taken as duly proved.

9. Party II-M/s Mahalsa Plastics is a partnership firm which conducts a factory which manufactures mainly plastic bottles which are supplied principally to Ciba Geigy Company. The factory used to engage temporary workers as well as permanent workers. The temporary workers were given breaks intermittently; but they were not made permanent in the employment. In the present case, the dispute has been raised by as many as 22 workers and out of them, it is the say of the employer that 11 workers were on temporary basis while the remaining 11 workers were permanent workers. The evidence on record discloses that the services of 4 temporary workers were terminated by the employer as their services were no more required. Hence, they raised an industrial dispute which ultimately came for decision before this Tribunal in a case registered at Reference No. IT/52/87. The said case has been disposed off by me on 12th Oct., 1991 holding interalia that the 4 workers named

therein were temporary workers whose services were rightly terminated by the employer w.e.f. 30th October, 1986. Since the employer terminated the services of 4 workers who were parties in reference No. IT/52/87, the remaining workers who were the members of an union went on strike. The strike continued from 11-11-86 to 21-11-87. Now, it is the say of the employer that during the strike period the workers damaged the factory beyond repairs as can be seen from the Court Commissioner's report. Since the factory was damaged beyond repairs the employer had to sustain a heavy loss with the result that he had to close down the factory and as such the factory is not working since the last many days. It is on this established state of affairs, I now proceed to consider the issues framed in this case.

10. Now as stated earlier, the four temporary workers who were retrenched had raised a dispute which was the subject matter of a reference registered at IT/52/87 which has been disposed off by me in the last month. Now, the parties to this proceedings have mainly relied upon the evidence led by them in the companion matter being IT/No. 52/87. Now, in the said case party II-Company examined Shri Vaman V. Kelekar who is a agent of Party II. His evidence discloses that after the services of 4 temporary workers were terminated the remaining workers went on strike and the strike continued for over a year. He has further stated, "The agitating workers indulged in arson and they damaged our factory by smashing the windows and porulating the roofing. Since that day it was not possible to run the factory. When I re-opened the factory after the strike was withdrawn, I noticed that the whole of the electric fittings were removed and damaged. So also I noticed that the electrical installations were also destroyed. In view of this the working in the factory could not be started and since this day the factory is closed."

11. Now, the evidence on record further reveals that during the examination in chief of this witness, a prayer made for the appointment of a Court Commissioner to note down the present situation of the factory and the extent of damage caused to it. Accordingly, Mrs. A. O. Fernandes was appointed a Court Commissioner who inspected the site in the presence of the representatives of the parties and submitted a report the substance of which can be stated thus:

"During the visit I observed that the factory was not working. After entering the mechanical section of the factory, I observed that all the machines in the section were idle. Electric connections were found in disconnected position. There were some holes in the upper roof of the factory. No person was employed in the Mechanical Section. Thereafter I inspected the generator set in the front position of the factory. The generator set was not working."

12. Thus, on reading the Court Commissioner's report, it is obvious that a substantial damage was caused to the machines in the factory and it must have been caused by the workers who were on strike. Over and above the Court Commissioner's report, Shri Kelekar also submitted report from the Electrical Engineer which can be found at Ex. 8. In his report and Exb. 8, he has stated that he had inspected the factory premises on 28-10-88 and gave the details of the damages caused to the electric operations. He has then observed in Exb. 8, the estimated cost of the damage, which works out to be Rs. 31,875/- as per attached sheet. The attached sheet gives the details on the basis on which the above referred estimated damage has been assessed. Now, in the cross examination of Kelekar a suggestion has been made to indicate that the above referred damages estimated by the Electrical Engg., is exaggerated. However, Kelekar has repelled that suggestion and has stuck up to his assertion that on account of illegal activities of the striking workers, the factory was damaged to such an extent that it is beyond repairs and hence the factory could not start functioning after the strike was

withdrawn. As against this evidence, there is no cogent evidence led on behalf of Party I to dislodge the assertions of Mr. Kelekar.

13. Two workers namely Shri P. A. Naik and Vishranti Gaonkar has been examined at Exb. 6 and Exb. 9. Now the first witness has attempted to state that if the factory is repaired, the management can start manufacturing if the management has a desire to do so. However, he had admitted even in his examination in chief that the factory is not working. To the same effect, there is the evidence of V. Gaonkar, who has also admitted that at present the factory is not working. However, she has added that the machinery is in good condition. However, in his cross examination she has stated that she had seen the machinery in the factory from the outside and say that it is in working condition. It is difficult to believe her when she had no opportunity to go inside the factory premises for finding out the real condition of the machinery. I, therefore, reject the evidence of these two workmen.

14. Thus, considering this state of affairs, there can be absolutely no doubt to conclude that after 4 temporary workers were retrenched (who were the parties in IT/52/87), the remaining workers went on strike which continued for over a year and during this period; the factory was damaged by the striking workers to such an extent that the partners had to close down the business. The damage caused to the factory was beyond repairs and beyond the financial strength of the partners and hence there was no other goal for the partners, but to close down this factory once for all. At the time of arguments also it has been submitted by Shri B. G. Kamat that since the extensive damage was caused to the machinery of the factory, the partners are unable to start the re-working of the factory. Thus, considering the evidence led by the parties to this proceedings, I have come to an irresistible conclusion that Party II has proved the first three issues and hence I answer the same in the affirmative.

15. That takes me to consider issue No. 4. It relates to the refusal of employment to twenty-two workers by Party II w.e.f. 23-11-87. Now, it is the contention of Party II that out of 22 workers who are the parties to this reference, 11 were on temporary basis while the remaining 11 were permanent. Now, Mr. Kelekar in his evidence at Exb. 10 in this case has stated that on the date on which the workmen went on strike, there were in all 22 workers and out of them, 11 were temporary. He has then produced the office copies of the letters of appointment issued to these 11 workers who were temporary. They are collectively marked at Exb. 11-E. Now at Exb. 11-E there are as many as 11 appointment letters given to 11 workmen namely Khemu Gaude, Vishnu Malu Gaude, Mahadev H. Gaude, Kamlakanth Gaude, Mahesh Naik, Vasanti A. Gaude, Peeru V. Zalmi, Baby Naik, Kanchan Manvelkar, Nalini P. Naik and Dyaneshwar Gaude. All these orders are cyclostyled orders and are similar in contents and form. Now, the letters of appointment at Exb. 11 in respect of the above named 11 workmen discloses as follows: Para 1 notes down the name of the workman, his residence, age and appointed from the date shown in the order. Para. No. 2 lays down that the workman would get Rs 7/- per day and the cost of living allowance. The other terms and conditions of service are stated in para. 3 and we are mostly concerned with sub-clause (i) which requires reproduction adverbium. It lays down thus:

"His/Her appointment is on temporary basis and will be for working during intermittent period of working of the establishment till 6th Sept., 1985. However, subject to the provisions of clauses (iv), (v) and (vi) hereunder, this letter of appointment will remain valid for any subsequent temporary appointment is the same capacity in the establishment, by adding on endorsement in the schedule herebelow indicating the date(s) of commencement and termination of each such appointment during each intermittent working. In case, he/she fails to report for work at the commencement of

any next intermittent working, he/she will lose lien on his/her appointment."

16. I have purposely reproduced condition No. (i) appearing in para. 3 of the appointment letters as the same is eloquent and would certainly lead to one and only one conclusion that all the 11 workmen named therein were appointed on temporary basis. Then, at the foot of the appointment letters one schedule is attached showing the record of temporary employment. The first column of the schedule gives the date of commencement of employment, second column gives the rate of wages, third — signature of the employer as well as employee, fourth — the date of termination of employment and lastly the signature of the employer and employee. Thus, a cursory perusal of the schedule in all the 11 letters of appointment at Exb. 11 clearly reveals that the above named 11 workmen were employed from time to time with breaks. Thus, they were not continuously employed but were employed according to the needs of the factory. All the 11 workers have signed these letters of appointment in token of having accepted all the terms and conditions stated in these letters of appointment. In view of this documentary evidence it is futile to urge on behalf of the workmen that they were employed not on temporary basis but on permanent basis. The evidence of Vaman Kelekar who examined on behalf of the employer is also to the same effect. There is absolutely nothing in the cross examination of Mr. Kelekar to dislodge his assertions made in the examination in chief in proof of the fact that 11 workers were temporary while the remaining were permanent.

17. Thus, considering the oral and documentary evidence led by the parties in this case, I have come to an irresistible conclusion that out of 22 workers who were parties to this reference, 11 workers whom I have named in para. 15 of this judgement were the temporary workers who were employed intermittently according to the needs of the factory. They were also re-employed from time to time but they were not the permanent employees of Party II. As far as the remaining 11 workers namely Shri Vasudev P. Naik, Namdev R. Naik, Pratap A. Naik, Jivu A. Jhalmi, Dattaram V. Devidas, Kum. Shubhangi J. Mathur, Kum. Vishranti K. Gaonkar, Kum. Sulbha V. Naik, Kum. Rekha Ramnath Gavde, Kum. Shrimati K. Gavde, Shri Vasudev Y. Gavde are permanent workers as admitted by the employer.

18. Now, it is the say of the employer that in as much as there was no necessity of re-employing these 11 temporary workers, their services automatically came to an end. Hence, there was no question of issuing any order of termination. Now, it has been urged by Shri Subhash Naik that the workmen who had worked for 240 days and more, the termination of their services amounts to retrenchment. To support his submission in this behalf, he has sought assistance on a ruling reported in 1981 Supreme Court Cases (L&S) 478 (Mohan Lal v. Management of M/s Bharat Electronic Ltd). However, at the out set, it will have to be stated that the facts in the reported case are clearly distinguishable with the facts in the instant case and besides, the observations made by their lordships of the Supreme Court in the said case are absolutely of no avail to Shri Subhas Naik. In the head note itself, it has been observed that termination simpliciter of services of a temporary workman, not falling within the excepted or excluded categories mentioned in Sec. 2 (oo) would amount to 'retrenchment'. In the reported case, the termination of the workmen's temporary service did not fall under any of the excepted or excluded categories and hence, it was held that the termination would be retrenchment within the meaning of the word as defined in Sec. 2(oo).

19. In the present case, I have already concluded that the 11 workmen were employed temporarily and the last tenure of their services came to an end on the various dates shown in the schedule. In view of the matter, the decision in the reported case is absolutely

of no avail to Shri Subhas Naik. Moreover, their lordships of the Supreme Court have made amply clear that if the retrenchment falls under any of the exception appended to Sec. 2(oo), then, it does not amount to retrenchment which has been defined in Sec. 2(oo) in the following words:

"Retrenchment means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, *but does not include*—

(bb) Termination of the service of the workman as a result of the non-renewal of the contract of the employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein."

20. Thus, regard being had to the provisions of exception (oo) there can be absolutely no doubt to conclude that in the present case, the termination of eleven workmen's service did not amount to retrenchment. Shri B. G. Kamat, the learned advocate for the employer has also invited my attention to two rulings on this point. He has relied upon a case reported in F.J.R. 271 (E. Rajeev & Ors. v. Karnataka State Construction Corporation Ltd.) In that case, in the head note, it has been observed by his lordship of the Karnataka High Court that the temporary employees has no right to the post held by the temporary appointments made due to the circumstances warranting such appointments and get terminated automatically at the end of contract period. It has been further observed that technically, a temporary employee has no right to the post to which he is appointed. His services could be terminated at the end of the contract period. In fact, his service gets terminated automatically at the end of the contract period. However, the cessation of a temporary tenure and the automatic termination of service by efflux of time, as contracted, will not amount to retrenchment under the provisions of the Industrial Disputes Act, 1947. Similar observations can also be found in F.J.R. Vol. 76 in the case of (K. Govardhana Reddy and Others V. S. P. Diary Development Co-operative Federation Ltd. and Another). In that case, it has been observed by his lordship of Andhra Pradesh High Court that the termination of service as a result of non-renewal of contract of employment does not amount to retrenchment.

21. Thus, following the above referred observations as applicable to the instant case, I hold that the termination of services of 11 workmen does not amount to retrenchment but their services came to an end when the contractual period expired. In view of the matter, it further follows that it was not incumbent upon the employer to comply with the provisions of Sec. 25-F of the Industrial Disputes Act, while discharging these 11 workers. In view of this conclusion, it further follows that the workmen are not entitled to any relief whatsoever.

22. That takes me to consider what is the fate of the remaining 11 workmen named in para. 17, after the closure of the factory. Now, I have already concluded while deciding the first three issues that on account of the illegal activities of the workers on strike, the factory was damaged to such an extent that there was no possibility of its repairs and re-opening. It has been also submitted by Shri B. G. Kamat for the employer that the factory has been completely closed and as stated by Shri Kelekar there is no possibility of his re-opening the factory in the near future. Hence, the employer had to resort to the closure of the factory and on this assumption, it follows that in view of the provisions contained in Sec. 25-FFF the permanent workers would get some monetary benefit. However, it will have to be observed that the employer was required to resort to the closure in as much as the striking workers adopted illegal activities like arson etc., and damaged the machinery in the factory and hence it is

now become impossible for the employer to start working his factory. In view of the state of affairs, it will have to be concluded that the factory was required to be closed down on account of unavoidable circumstances beyond the control of the employer and hence while granting compensation the provisions appended to Sec. 25-FFF will have to be observed.

23. In view of the above referred conclusions, I hold that the order of termination in respect of 11 temporary workers is perfectly legal and justified and hence they are not entitled to any relief whatsoever. However, as far as the permanent workers are concerned they are entitled to the monetary benefits laid down in the proviso to Sec. 25-FFF in the Industrial Disputes Act. I, therefore answer issues 3 & 4 & 5 accordingly and pass the following award.

#### ORDER

It is hereby declared that the action of the management in refusing employment to 11 temporary workers named in para. 15 is perfectly legal and valid and they are not entitled to any relief whatsoever.

2. However, the 11 permanent workers named in para. 17 are hereby entitled to get monetary benefit laid down in the proviso to Section 25-FFF of the Industrial Disputes Act, 1947.

3. No order as to costs. Inform the Government.

Sd/-  
(M. A. Dhavale)  
Presiding Officer  
Industrial Tribunal

#### Department of Law & Judiciary Legal Affairs Division

#### Notification

No. 10/4/98/LA

The following Notification received from the Government of India, Ministry of Law, Justice & Company Affairs (Legislative Department), New Delhi, is hereby published for the general information of the public.

P. V. Kadneker, Joint Secretary (Law).

Panaji, 24th August, 1998.

#### GOVERNMENT OF INDIA Ministry of Law, Justice & Company Affairs (Legislative Department)

New Delhi,  
6th August, 1998  
Dated the 15 Shrawana, 1920 (Saka)

#### Notification

F. No. 7(8)/98-Leg. II

In continuation of this Department's notification of even number dated 3rd June, 1998 constituting a 7-Member Committee to suggest

concrete proposals for providing State funding to recognised political parties and other related matters, Professor Ram Gopal Yadav, Member of Parliament is hereby nominated as Eighth Member of that Committee with immediate effect.

2. The other terms and conditions of the Committee will remain unchanged.

*Dr. Raghbir Singh,*  
Secretary to the Government of India.

### Law Establishment Division

#### Order

No. LS/1077/93

Read: Government order No. LS/1077/93 dated 25-9-98.

Government is pleased to accept the resignation tendered by Shri Joaquim Godinho, Advocate, Panaji of the post of Additional Government Advocate in the High Court of Bombay, Panaji Bench with effect from 27-11-98.

By order and in the name of the Governor of Goa.

A. S. Awale, Under Secretary (Law).

Panaji, 11th December, 1998.

### Notifications by the High Court of Judicature Appellate Side, Bombay

No. A. 1202/G/98

The Honourable the Chief Justice and Judges are pleased to accord ex-post-facto sanction to the commuted leave for 12 days from 23-6-1998 to 4-7-1998 with permission to suffix 5-7-1998 being Sunday availed of by Shri N. A. Britto, District and Sessions Judge, Panaji.

On return from leave Shri Britto was reposted as District and Sessions Judge, Panaji.

Shri A. D. Salkar, Additional District and Sessions Judge, Panaji, was kept in charge of the Court of District and Sessions Judge, Panaji, in addition to his own duties during the leave period of Shri N. A. Britto from 23-6-1998 to 4-7-1998.

High Court, Appellate Side,  
Bombay, 12th August, 1998.

*P. N. Kashalkar*  
Additional Registrar (Adm.).

No. A. 1202/G/98

The Honourable the Chief Justice and Judges are pleased to grant Shri D. R. Kenkre, Additional District and Sessions Judge, Mapusa, earned leave for 16 days from 9-7-1998 to 24-7-1998 with permission to prefix 8-7-1998 being holiday and suffix 25-7-1998 and 26-7-1998 as fourth Saturday and Sunday respectively.

On return from leave Shri Kenkre is reposted as Additional District and Sessions Judge, Mapusa.

Shri A. D. Salkar, Additional District and Sessions Judge, Panaji, is kept in charge of the Court of Additional District and Sessions Judge, Mapusa, in addition to his own duties during the leave period of Shri D. R. Kenkre from 9-7-1998 to 24-7-1998.

High Court, Appellate Side,  
Bombay, 13th August, 1998.

*P. N. Kashalkar*  
Additional Registrar (Adm.).

### Corrigendum

No. A. 1202/G/98

Substitute the words and figures "19 days from 31-8-1998 to 18-9-1998 with permission to prefix 30-8-1998 being Sunday" for the existing words and figures "20 days from 31-8-1998 to 19-9-1998 with permission to prefix 30-8-1998 and suffix 20-9-1998 both being Sundays" appearing in the first para of the High Court Notification No. A. 1202/G/98 dated 29-8-1998.

Similarly, substitute the figures "18-9-1998" for the existing figures "19-9-1998" appearing in the 3rd para of the above referred Notification dated 29-8-1998, regarding grant of earned leave to Kum. Nutan D. Sardesai, Additional District and Sessions Judge, Panaji.

High Court, Appellate Side,  
Bombay, 23rd November, 1998.

*P. N. Kashalkar*  
Additional Registrar (Adm.).

### District & Sessions Judge

#### Order

No. DSC/MAR/GEL-10/1998/4841

Read: This Office Order No. DSC/MAR/GEL-10/1998/4435 dated 29-8-98.

Provisional leave granted to Kum. Kalpana V. Gavas, Civil Judge Jr. Division & J.M.F.C., Margao for 2 days with effect from 28-8-98 to 29-8-98 with permission to prefix 25-8-98, 26-8-98 & 27-8-98 being Holidays and to suffix 30-8-98 being Sunday, vide this Office Order No. DSC/MAR/GEL-10/1998/4435 dated 29-8-98, shall be treated as Earned Leave.

After availing the above leave she will have at her credit 157 days of earned leave as on 11-3-98.

*V. P. Shetye, District & Sessions Judge (South).*

Margao, 23rd September, 1998.

#### Order

No. DSC/MAR/GEL-10/1998/5055

Ex-post facto sanction is hereby granted for availing of earned leave for 5 days with effect from 18-7-98 to 22-7-98 to Smt. Vijaya D. Pol, Civil Judge Junior Division & J.M.F.C., Margao.

Certified that but for proceeding on leave she would have officiated as Civil Judge Junior Division & J.M.F.C., Margao.

On return from the above leave Smt. Vijaya D. Pol is reposted as Civil Judge Junior Division & J.M.F.C., Margao.

After availing the above leave she will have at her credit 25 days of earned leave as on 11-2-1998.

V. P. Shetye, District & Sessions Judge (South).

Margao, 6th October, 1998.

#### Order

No. DSC/MAR/GEL-10/1998/6186

Ex-post facto sanction is hereby granted for availing of commuted leave for 3 days with effect from 16-11-98 to 18-11-98 with permission to prefix 14-11-98 & 15-11-98 being 2nd Saturday & Sunday respectively to Miss Shylaja Vassudevan, Civil Judge, Junior Division & J.M.F.C., Quepem.

Certified that but for proceeding on leave she would have officiated as Civil Judge, Junior Division & J.M.F.C., Quepem.

On return from the above leave Miss Shylaja Vassudevan was reposted as Civil Judge, Junior Division & J.M.F.C., Quepem.

During the above leave period Shri S. M. Sangodkar, Civil Judge, Senior Division & J.M.F.C., Quepem was kept in charge to look after the urgent Civil & Criminal work pertaining to the Court of the Civil Judge, Jr. Divn., & J.M.F.C., Quepem in addition to his duties.

Miss Shylaja Vassudevan will have at her credit 32 days of half pay leave as on 31-12-1998.

V. P. Shetye, District & Sessions Judge (South).

Margao, 14th December, 1998.

#### Order

No. DSC/MAR/GEL-10/1998/6969

Shri V. S. R. Dessai, IInd Addl. Civil Judge, Sr. Division & J.M.F.C., Margao is hereby granted earned leave for 5 days with effect from 14-12-98 to 18-12-98 with permission to prefix 12-12-98 & 13-12-98 being 2nd Saturday & Sunday respectively and to suffix 19-12-98 & 20-12-98 being Holiday & Sunday respectively.

Certified that but for proceeding on leave he would have officiated as IInd Addl. Civil Judge, Sr. Divn., & J.M.F.C., Margao.

On return from the above leave Shri V. S. R. Dessai, is reposted as IInd Addl. Civil Judge, Sr. Divn., & J.M.F.C., Margao.

During the above leave period Shri P. V. Sawarkar, Ist Addl. Civil Judge, Sr. Divn., & J.M.F.C., Margao is kept in charge to look after the urgent Civil & Criminal work pertaining to the Court of the IInd Addl. Civil Judge, Sr. Divn., & J.M.F.C., Margao in addition to his duties.

He is permitted to leave Headquarters with effect from 12-12-98 to 20-12-98.

V. P. Shetye, District & Sessions Judge (South).

Margao, 18th December, 1998.